

IN THE CIRCUIT COURT OF CASS COUNTY, MISSOURI

**STATE OF MISSOURI ex rel.,
JEREMIAH W. (JAY) NIXON,
Attorney General of Missouri,**

**AND THE MISSOURI DEPARTMENT
OF NATURAL RESOURCES,**

Plaintiffs,

v.

Case No. _____

**JIM ROBBINS COMPANY, INC.,
a Missouri Corporation in good standing,
Registered Agent: James D. Robbins
8105 Hickman Mills Drive
Kansas City, MO 64132 (Jackson County)**

**HARLAN L. LIMPUS, individually, and
126 Algonquin
Lake Winnebago, MO 64034 (Cass County)**

**RONALD D. LIMPUS, individually,
22400 South State Route 291
Harrisonville, MO 64701 (Cass County)**

Defendants.

**PETITION FOR PRELIMINARY INJUNCTION, PERMANENT INJUNCTION,
COST RECOVERY, AND CIVIL PENALTIES**

COMES NOW, Plaintiff, the State of Missouri, at the relation of Jeremiah W. (Jay) Nixon, the Attorney General of Missouri, and the Missouri Department of Natural Resources, and for its petition against Defendants Jim Robbins Company, Inc., Harlan L. Limpus, and Ronald D. Limpus, (“Defendants”), states as follows:

1. Plaintiff, Jeremiah W. (Jay) Nixon, is the duly qualified, elected, and acting Attorney General of Missouri. The Attorney General is authorized to institute, in the name and on behalf of the state, civil proceedings at law or in equity necessary to protect the rights and interests

of the state under §27.060, RSMo. Plaintiff brings this action in the name of the people of Missouri. The Missouri Solid Waste Management Law authorizes the Attorney General's Office to bring this suit pursuant to §260.276.2, RSMo.

2. The Missouri Department of Natural Resources, ("the Department"), is a duly authorized state agency created under Section 640.010, RSMo, in part, to enforce the provisions of the Missouri Solid Waste Management Law, §§260.200 through 260.345, RSMo, (as amended), and the accompanying regulations.

3. Attorney General Nixon and the Department shall be collectively referred to as "the State" in this petition unless specifically designated otherwise.

4. Defendants Harlan L. Limpus and Ronald D. Limpus were shareholders in Limpus Quarries, Inc., a Missouri corporation in good standing with the Secretary of State's Office, during all time relevant to the acts alleged in this Petition. Limpus Quarries, Inc. leased certain land owned by Wayne and Mary Lou Bishop located at the Southwest half of the Northwest Quarter of Section Twenty-nine (29), Township forty-three north (43N), Range Thirty-two west (32W), Cass County, Missouri for at least ten (10) years, "the lease." This property shall be herein referred to as the, "site." Based upon information and belief this lease began January 1, 1981. A true and accurate copy of this lease supplied to the State by Wayne and Mary Lou Bishop is attached hereto and incorporated as Exhibit A.

5. Based upon information and belief, Defendants Harlan L. Limpus and Ronald D. Limpus signed an Assignment and Assumption Agreement, "Assignment Agreement," with Limpus Quarries, Inc. and Ashland, Inc. in June 19, 1996, as part of a sale of Limpus Quarries,

Inc. to Ashland, Inc. Defendants Harlan L. Limpus and Ronald D. Limpus agreed in the Assignment Agreement to assume:

All rights, obligations, and liabilities in any way relating to the Contract and Lease between Wayne Bishop, Mary Lou Bishop, and Limpus dated January 1, 1981, and any oral or written extension or renewal thereof; (Assignment Agreement, ¶ 1.(b))

A true and accurate copy of this Assignment Agreement provided to the State is attached and incorporated as Exhibit B.

6. Defendant Jim Robbins Company is a Missouri corporation currently in good standing with the Secretary of State's office. Based upon information and belief, Jim Robbins Company entered into an agreement with Limpus Quarries, Inc. which provided, in part, that Jim Robbins Company could dump waste tires on the site.

7. The acts of Defendants alleged herein occurred at the site in Cass County, Missouri and therefore venue is proper pursuant to §260.240, RSMo.

8. The Department inspected the site on October 23, 1991, January 6, 1997, February 19, 1999, April 3, 2002, October 29, 2002, and Dec 16, 2002. Since the visit in October 23, 1991, the Department estimates that approximately one million (1,000,000) waste tires have been located on the site. The waste tires are located, among other places, in caverns and pits developed in the land during the mining done by Limpus Quarries.

9. Section 260.270.1(1) makes it illegal for any person to dispose of waste tires in the State except as provided in the Missouri Solid Waste Law and implementing regulations.

10. Defendants' actions including disposing of or storing waste tires at the site or authorizing and permitting others to do so constitute the unlawful storage, collection, processing, or disposal of solid waste within the meaning of §260.210.1, RSMo.

11. Pursuant to §260.240.1, RSMo, Defendants are subject to the imposition of a civil penalty not to exceed \$1,000.00 per day per violation, or part thereof, that they have illegally disposed of or stored waste tires on the site; or allowed others to do so; or otherwise violated the provisions of the Missouri Solid Waste Management Law, §§260.200 to 260.245, RSMo.

**COUNT I: STATUTORY ACTION UNDER
MISSOURI SOLID WASTE MANAGEMENT LAW**

12. The State realleges and incorporates by reference each and every allegation contained in paragraphs 1-11.

13. The site constitutes an unpermitted “solid waste disposal area” as the term is defined §260.200(35), RSMo 2000, and also an unpermitted “waste tire site” as that term defined in §260.200(49), RSMo 2000.

14. Defendants’ actions including disposing of or storing waste tires at the site or authorizing and permitting others to do so constitute the unlawful storage, collection, processing, or disposal of solid waste within the meaning of §260.210.1, RSMo 2000.

15. Defendants have disposed of or stored waste tires, or allowed others to do so, for more than 730 days immediately preceding the filing of this petition.

16. The unlawful acts of Defendants are of such a continuous nature, and is in such conscious disregard for public health and the protection of soil and water resources of the State of Missouri, the State believes the Missouri Solid Waste Management Law will continue to be violated by Defendants unless they are restrained by the Court.

17. Pursuant to §260.240.1, RSMo, Defendants are subject to an injunction compelling them to remove the waste tires disposed of or stored at the site and to cease bringing waste tires to the site.

18. The State has no adequate remedy at law.

WHEREFORE, the State prays for this Court's order that:

A. Issues a preliminary and permanent injunction compelling Defendants to promptly remove and properly dispose of the waste tires stored on the site at a legal destination; to cease bringing waste tires to the site; and to comply with the waste tire site storage requirements of 10 CSR 80-8.040(5) until all waste tires have been removed from the site;

B. Imposes against Defendants an appropriate civil penalty not to exceed \$1,000.00 per day, or part thereof, that they have disposed of or stored waste tires on the site, or allowed others to do so, or otherwise violated the provisions of §§260.200 to 260.245, RSMo; and

C. Grants such further relief as this Court deems just and proper.

**COUNT II: NUISANCE ABATEMENT ACTIVITIES AND
COST RECOVERY UNDER §260.276, RSMo**

19. The State realleges and incorporates by reference each and every allegation contained in paragraphs 1-18.

20. Section 260.276, RSMo, provides the following, in pertinent part:

1. The department of natural resources shall, subject to appropriation, conduct resource recovery or nuisance abatement activities designed to reduce the volume of waste tires or alleviate any nuisance condition at any site if the owner or operator of such a site fails to comply with the rules and regulations authorized under section 260.270, or if the site is in continued violation of such rules and regulations....

2. The department may ask the attorney general to initiate a civil action to recover from any persons responsible for reasonable and necessary costs incurred by the department for its nuisance abatement activities and its legal expenses related to the abatement;...

21. Because Defendants created or allowed to be created the nuisance at the site, they are responsible for the reasonable and necessary costs incurred by the Department for its nuisance abatement activities and its legal expenses related to the abatement.

22. The State has no adequate remedy at law.

WHEREFORE, Plaintiff prays for this Court's order that:

A. Issues a preliminary and permanent injunction compelling Defendants to promptly remove and properly dispose of the waste tires stored on the site at a legal destination, but if the Defendants fail to remove all waste tires from the site then -

B. Authorizes the Department and its contractors and sub-contractors to conduct nuisance abatement activities to eliminate tires stored at the unpermitted waste tire site and to inspect and monitor the progress of the clean-up;

C. Prohibits Defendants from interfering with the Department or any of its third-party contractors in the performance of nuisance abatement activities;

D. Finds that Defendants are responsible for creating or allowing to be created the nuisance condition and therefore the State is entitled to recover from Defendants its reasonable and necessary costs incurred for its nuisance abatement activities and its legal expenses related to the abatement; and

E. Grants such further relief as this Court deems just and proper.

Respectfully submitted,

JEREMIAH W. (JAY) NIXON
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